

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DOROTHY GRANT,

Plaintiff,

v.

WESTAFF TEMPORARY AGENCY,

Defendant

No. C-04-0277 MMC

**ORDER DENYING MOTION TO DISMISS;
COMPELLING PLAINTIFF TO COMPLY
WITH DISCOVERY REQUESTS**

(Docket No. 52)

Before the Court is the motion filed August 25, 2005 by defendant Westaff Temporary Agency ("Westaff"), seeking dismissal of the above-titled action pursuant to Rule 37 of the Federal Rules of Civil Procedure. Plaintiff Dorothy Grant ("Grant") has filed opposition to the motion, to which Westaff has replied. Having considered the papers filed in support of and in opposition to the motion, the Court finds the matter appropriate for resolution without oral argument, see Civil L.R. 7-1(b), VACATES the November 18, 2005 hearing, and rules as follows.

The instant motion is based on Grant's admitted refusal to comply with Westaff's discovery requests. Grant's only proffered reason for failing to comply with her discovery obligations is that she does not have an attorney. The Court has notified Grant, during at least one case management conference, that Grant, having filed the instant action, has a responsibility to prosecute such action with or without the assistance of counsel. Because

1 that admonition occurred during unreported proceedings, however, and because Grant may
2 not have understood it to apply to the discovery obligations at issue in the instant motion,
3 the Court will afford Grant one final opportunity to comply with Westaff's discovery
4 requests.

5 Accordingly, it is HEREBY ORDERED that:

6 1. Westaff's motion to dismiss is DENIED without prejudice.

7 2. Grant must proceed with this litigation with or without an attorney. The Court will
8 no longer accept Grant's lack of counsel as an excuse for her failure to comply with her
9 obligations in this litigation.

10 3. No later than November 16, 2005, Grant shall serve Westaff with her initial
11 disclosures, pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure.

12 4. No later than November 16, 2005, Grant shall serve Westaff with her responses
13 to Westaff's previously-served First Set of Interrogatories, and First Set of Requests for
14 Production of Documents.

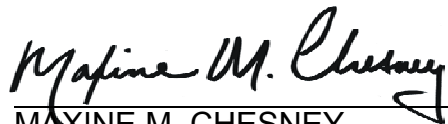
15 5. No later than November 23, 2005, at a time and place selected by Westaff, Grant
16 shall appear for her deposition. Westaff shall serve Grant by mail with a notice of
17 deposition, and also shall file a copy of the notice of deposition with the Court. As Grant
18 previously has been ordered to check the docket regularly, her failure to receive the notice
19 of deposition by mail will not be accepted as an excuse for her failure to appear at her
20 deposition.

21 6. If Grant fails to comply with any of the above-referenced deadlines, or to comply
22 with any of her other obligations in this litigation without good cause, the instant action will
23 be DISMISSED with prejudice.

24 This order terminates Docket No. 52.

25 **IT IS SO ORDERED.**

26 Dated: November 2, 2005

27 
28 MAXINE M. CHESNEY
United States District Judge